IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 2ND JANUARY 2007 / 12TH PAUSHA 1928

OP.No. 4006 of 2003(B)

PETITIONERS:
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1. **JAY FURNISHING AGENCY, KALLIATH BUILDING SHORNUR ROAD, THRISSUR, REPRESENTED BY ITS PARTNER.**

2. **M/S. KALLIATH AUTOMOBILES LTD., CHEMBUKAVU, TRICHUR, REPRESENTED BY ITS DIRECTOR.**

BY ADV. SRI.J.JULIAN XAVIER
SRI.RAJESH THOMAS

RESPONDENTS:
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1. **KERALA COIR WORKERS WELFARE FUND BOARD, ALAPPUZHA, REPRESENTED BY ITS CHIEF EXECUTIVE.**

2. **KERALA COIR WORKERS WELFARE FUND BOARD, REGIONAL OFFICE, NORTH PARAUR.**

3. **STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM.**

4. **COIR BOARD, REPRESENTED BY ITS SECRETARY, M.G. ROAD, COCHIN-682 016.**

5. **TAHSILDAR (R.R.), THRISSUR.**

BY ADV. SRI.DENIZEN KOMATH, SC, CWWFB
SRI.P.S.SREEDHARAN PILLAI, SCGSC
SRI.JOHN VARGHESE, SCGSC

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 02/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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O.P.No.4006 of 2003

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Dated this the 2nd day of January, 2007

J U D G M E N T

The petitioners claim to be the dealers engaged in the business of selling mats, fibre form mattresses and pillows with rubberised coir backing manufactured by Duroflex Coir Industries Ltd. In this original petition the petitioners are challenging the vires of the Kerala Coir Workers Welfare Fund Act, 1987 as amended by the Amendment Act of 1998. The very same issue involved in this original petition was considered by a Division Bench of this court in Charangat Coir Manufacturing Co.(P) Ltd. v. State of Kerala reported in 2004 (1) KLT 312, wherein it has been held that Section 4(2) of the Amended Act which imposes liability to pay contribution on the dealer and exporter on the basis of their turnover is unconstitutional and outside the ambit of Entry 23 of List III of the

Constitution and lacks legislative competence. The averment in the original petition that the petitioners are only dealers in form mattress and pillows with rubberised coir backing is not disputed before me by the respondents by producing any material to controvert the same. That being so, the said judgment is squarely applicable to the petitioners' case and as such, the petitioners are entitled to the relief prayed for in this original petition to the extent granted in Charangat Coir Manufacturing Co.' case (supra). Therefore, I quash Exts.P2 and P3 demands raised on the petitioners for Welfare Fund contributions, following the above said judgment.

The original petition is allowed as above.

Interlocutory applications stand closed.

sdk+ S.SIRI JAGAN, JUDGE

S.SIRI JAGAN, J.

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O.P.No.4006 of 2003

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J U D G M E N T

2nd January, 2007